

LAKE COUNTY PLANNING BOARD
March 8, 2017
Lake County Courthouse, Large Conference Room (Rm 316)
Meeting Minutes

MEMBERS PRESENT: Steve Rosso, Sigurd Jensen, Rick Cothorn, Frank Mutch, Lee Perrin, David Goss

STAFF PRESENT: Jacob Feistner, Rob Edington, Lita Fonda; Wally Congdon

Steve Rosso called the meeting to order at 7:37 pm. Meeting delay was due to the Board of Adjustment meeting running unusually long.

RIVER VALLEY TRAILS SUBDIVISION AMENDMENT (7:37 pm)

Jacob Feistner noted that Rod Haynes, managing member of River Valley Trails LLC, was here and then presented the staff report. (See attachments to minutes in the March 2017 meeting file for staff report.) Jacob said the Tribes hadn't commented yet. Staff would accept comments from Tribal Wetlands before this went to the Commissioners. If they recommended that a reduced setback wouldn't impact the canals or wetlands, he would be comfortable taking that to the Commissioners. Nothing had been received from an authority on those topics so staff were basing it on the information that they had.

Steve asked if the intent with the setbacks was to protect the wetlands or to prevent someone being impacted by the wetlands. What kinds of uses did these setbacks allow? Jacob replied a 100-foot setback to the canals existed when this was proposed. That was a structural setback where they couldn't build impervious surfaces within that 100 feet. The setback to the wetlands was part of the buffer plan, which was its own document to protect the wetlands. The canal setback was to prevent issues with structures due to the seepage and leakage from the canal. These two separate reasons were dealt with separately at that time. Sigurd asked if the canals created the wetlands. Jacob said that was likely. They were at least enhanced by that. Jacob recommended the same setback but he was putting the 100-foot setback to canals and the 100-foot buffer to wetlands in one condition.

Steve checked that buffers were different than setbacks. For example, was Jacob recommending that grazing be fenced out of the wetland buffer? Jacob clarified he recommended what was in the condition, which he read, dealing with impervious surfaces. He reminded they were dealing with 20-acre lots or larger. Steve read 'protected from chemical fertilizers and natural vegetation should be maintained'. That would restrict tilling. Sigurd said it wouldn't if they didn't fertilize it. Regarding tilling and planting, Jacob thought it depended on what they were doing.

Dave said if the buffer management plan went away, some restrictions in it would go away. Didn't that restrict grazing? Jacob clarified it said the property owner would like to restrict grazing in the wetland buffer in order to promote wildlife habitat in the overall wetlands. It suggested restricting it but didn't prohibit it. Dave checked that if the Board accepted Jacob's recommendation and the buffer management plan went away, then the only restriction would be on impervious surfaces in the 100-foot setback. Steve pointed to the last sentence in condition

#12. The two points in the buffer plan got moved into this condition, one being the fill material or other impervious surfaces and the second being to protect the area from chemical fertilizer and maintain natural vegetation. Dave said there were two different things. The chemical fertilizer and natural vegetation referred strictly to the wetlands. Jacob suggested it might make more sense to separate them into two conditions instead of one condition. Dave thought that might be good. If the Board struggled with that distinction, someone buying a lot might struggle with that same thing. His other concern dealt with #2 of the covenants, which included the number and type of structures you could put on [the buffer]. If #2 went away, were any of those restrictions still be in place? Jacob said everything in #2 was covered by a subdivision condition of approval so [staff] were okay with that one going away.

Rick asked about the minimum space required to determine that something was a wetland. Jacob read the definition which had no surface area minimum. It focused more on soil and vegetation.

Rod Hayes, managing member for the project, spoke about the application. Staff were asking them to be bound by regulations that existed now but didn't exist then. He talked of his frustrations about what they had to go through when they submitted the subdivision. The definition of the wetlands at that time was that it had to be a natural lake, stream or river. Wally had suggested that they might not want to do it because there were probably government programs that would pay to protect those lands. He called Ben Montgomery of NRCS (Natural Resources Conservation District) and had a different take on that from Jacob. He reported that Ben said although the land was wet and it would show up on a map as wetlands, those were not technically wetlands. It was a manmade situation. Ben's group could do a survey and show them what was wetland. This was leakage from ditches. The 100-foot setback was a significant impact if you looked at the map of the subdivision. They were trying to make this land saleable. The market had changed. The interested people now were farmers. One person who wanted to buy a 40-acre parcel was here [tonight]. There were 2 main ditches and all kinds of ponds. If they looked 50 years down the road, the land use would be the same as now. He talked more about his great frustrations in the subdivision process. They were now trying to sell this to ag users, who didn't want this land [since] they wanted to use it for agricultural purposes, not for [residential lots]. He didn't think the national loss of wetlands needed to be mitigated on the backs of their subdivision when you could build next to the wetland next door. He aired his frustrations with staff response over the last 5 years. In Dec. 2016, the contact changed to Jacob, to whom he gave kudos and appreciation for responding in a timely manner and listening to what they were saying. Rod understood protecting water and land. This seemed like an overreach.

Jeff Benson, a partner with Rod H, was aware they'd signed a buffer plan. His impression was that they had no wetlands. Had he seen their parcel's depiction, he wouldn't have authorized Rod to sign it. He pointed to the 40-acre parcel on the lower right. You could see the impact of the buffer areas on that. You couldn't build a residential structure on the parcel because there was no way to get to [a buildable] area since you couldn't build a road in the buffer. The water was the result of manmade issues. The simple solution was to shut down the irrigation ditch. They had a buyer for the 40-acre parcel now, but they were impacted in such an onerous way that there was no utility to the parcel as it sat today. He acknowledged the wetlands inventory and in the lower right, that the map was for general reference only, and that the US Fish & Wildlife Service was not responsible for the accuracy. The only way to establish wetlands, per

his research, was to go out and do plant and soil assessments to determine that there's anaerobic plant life and so forth. He didn't believe there was or that an assessment was done. He thought it was an arbitrary condition with an arbitrary number with no scientific rationale.

Jeff highlighted some findings of fact from the 2006 submittal. He read land use goal and objectives #3, #2 and #6. He talked about weeds. Historic land use in that area was agricultural. He talked about their reduced density. They felt buffers were created in the overall scheme. They also allocated 3.6 to 4.01 acres for a fenced common area as mitigation. He reiterated they paid \$7000 per lot impact fee for road improvement although improvements weren't done. What were they trying to protect? This wasn't designated as critical habitat. There wasn't much wildlife there. With the current CC&R's, his understanding was they were to fence and not graze at all. The County priorities were to preserve the agricultural way of life. They were trying to do that. They couldn't build and they couldn't sell it to a farmer as it was. They weren't professional developers. The process was incredibly complex for them. They pleaded ignorance in having agreed to this buffer plan. He talked more about the manmade wetlands.

Rod echoed Jeff's comments. Jeff summarized they had a wildlife preserve with no wildlife. They were trying to go back to the stated goal of the County. He urged a common sense approach and recognition that the wet spots on the land stemming from lack of maintenance on the ditches were not natural features to protect with a 100-foot buffer.

Lee asked about why have a 20-foot setback rather than a 50-foot one. Rod said he'd like to eliminate any references to setbacks and eliminate the buffer. They'd like it to be agricultural ground like it was before, like the farm ground next door. With the irrigation project, you had to leave enough room for them to operate their equipment. A distance wasn't designated. Lee brought up the irrigation canal leakage that he'd heard about. In building a house 20 feet away from that, wasn't flooding or leakage a concern? Rod pointed to a wetland he circled that no longer existed after a neighbor changed to a sprinkler. He thought they should let common sense be the guide rather than having a setback. If someone built too close to a ditch and got flooded, they could fight it out with their insurance company.

Rick asked if the applicants had made their position known directly with the Commissioners. Rod said they hadn't gotten to that point yet. He noted Jacob pointed out this was a condition of subdivision approval, which was a material change and needed tonight's public hearing.

Rick asked about interaction with the Tribes. Rob thought they'd comment when they got around to it. He anticipated that they would say they needed all of the wetlands. To their credit, they watched over the land. Jeff added they asked the Tribes about a statutory requirement for a distance from the ditch. The verbal answer was no. He thought you needed to do soil testing if you were going to build to see what the moisture situation was. Dennis Duty said it was actually the BIA (Bureau of Indian Affairs) [rather than the Tribes]. Rod asked about the need for comment. Jacob said if this [proposal] came in today and the applicants wanted less than 100 feet, it would be a variance. They would need to establish a hardship. Comments would be wanted to show that it would be appropriate. Today was different than when this approval came about. He asked for comment with this request because it was part of the original buffer plan.

Public comment opened:

Jim Harrison owned land nearby and was interested in buying a 40-acre parcel. The same ditches went through his place. He put in a new sprinkler system a few years ago and didn't have the potholes. The potholes were only there when you irrigated. He didn't know how you could put a sprinkler system on the ditch if you couldn't build a structure. He didn't want land where he was told what he could do on 100 feet of either side of the ditch. If someone was stupid enough to build too close to the ditch, maybe they wanted a basement swimming pool.

Dennis Duty was trying to help market the property. He talked about the wetlands shown on the map and pointed out where there were pivots now, and no standing water anymore. Most of it had to do with poor management of the irrigation, in his opinion. They ran cattle on the land and just turned [the water] loose and maybe came back in 4 or 5 days to move it again. The water went into little pockets and sat there. He thought Jim was correct in that these were not wetlands. If you turned the water off, shortly you'd have nothing other than grazing grass. It was an overreach. This was an opportunity to get some ag land back into ag. [The applicants] put a couple of wheel lines on the other end to make it sellable and operable as ag land and for alfalfa production. If they could get in this kind of production, they could get people to buy it who would take care of it the way it should be taken care of. He called the BIA about this and asked about setbacks from ditches and was told that they had none. He talked to builders about problems they might have building houses near irrigation canals regarding water leaking into the houses. The builders told him if you couldn't build a house nowadays with a basement that wouldn't leak, you weren't a very good builder. You could divert the water around the house. He thought it was a misconception to have a 100-foot setback to avoid a structure leaking.

Rod described the exhibit 8 file picture as a pond that was about 300 feet off of the property. That pond dried up unless he called the ditch rider and asked for the gate to be opened.

Public comment closed.

Wally said the 100-foot setback questions didn't come from the subdivision regulations here. The number came from the setback for sanitation. There was a standard 100-foot setback for all water courses for septic tanks, drainfields and wells. You didn't put those structures so close to the water because the water was contaminated or contaminated you. That was where it came from. There was a reason at the time for why they said 100 feet. The number still existed today. The second part was the WRPD program. The NRCS told him that they were getting money to purchase lands from WRP (Wetlands Restoration Program) conservation easements, man-created or not, which was something different than they told Rod. They said there was money out there for it but none was left in Sanders and Lake County.

Part of the hesitation to change the canals was the tremendous amount of seepage. A lot of the canals were 50% to 60% not efficient, so if you put 100 gallons in, 50 to 60 gallons leaked out before it got to the place of use. It was a huge issue and problem. The fantasy was if they used sprinklers instead of flood irrigation, they could do better. They were using less water and needed less to get there because of the sprinklers. That changed in the last 10 years since Rod did his project. Don't forget that the applicants got the subdivision. There was something on the other side of the equation that the owner got. The contemplated use, an equestrian-pedestrian

park development, was a grand idea, which failed. Going back to the other vision of use was the agricultural vision. To keep the subdivision, what was a reasonable requirement or set of rules?

To describe why the ditch thing became such an issue, Wally gave an example of one ditch originally for ranches that now had 236 users. The problem became that as it got split, nobody maintained or took care of the ditch, and livestock got fenced in and screwed it up. Part of the rationale of the state law for saying you needed to share the water right and the maintenance obligation of the ditch was to keep people from hurting it. He talked about what a reasonable rule was to preserve a neighbor's agricultural opportunity. It probably wasn't a 100-foot width. It might be 25 or 20. It was something that said they intended to keep the ditch usable for the downstream water users. Somebody upstream didn't get to screw up the ditch so you didn't get your water. Part of the delay was unraveling the mess. This wasn't taking lots away from the developer. This was trying to redefine the [commonplace inaudible] and what they had and where it went. The point was to make the conditions fit a different contemplated use than what was talked about 10 years ago, not to unsubdivide.

Steve asked about findings of fact to consider. Jacob said he did not present modified findings of fact. He just pointed out where they would need to be modified. Starting on pg. 9, he underlined and bolded things in the findings that referenced what they were talking about. He felt the first one that he underlined should stay. The underlined one on pg. 10 would stay, based on his recommendation. In IV, the discussion of the buffer plan would go away and be replaced with discussion of the recommended conditions. He didn't write that. He just pointed out where they would need to adjust. Steve suggested they discuss the realities of changing the use of the land. They would still sell to someone who wanted to build a house. Rod said one dwelling unit per parcel. Steve thought the issue of what were wetlands and what weren't should be discussed. He asked about flood irrigation. Rod said for the most part it wasn't getting irrigated right now. Jeff said the 40-acre piece did get irrigated. (Someone quipped the road did too.) Rod said that wasn't happening actively or formally. Steve asked if they thought the wetlands would dry up if the water was pumped to a pivot or sprinklers. Jim Harrison responded yes because this was what happened on his 80-acre piece across the road. Steve noted one way to eliminate the buffers was if the wetlands went away. Rod thought there was underground seepage [from the irrigation ditches], not just from the gates being opened. If they started to sprinkle, they risked having it all called wetlands because it would all be green and wet.

Jeff said they were subject to the depiction, even some areas didn't exist. Steve asked whether the map or the ground was examined to determine where a setback had to be. Jacob said if someone with authority determined they weren't wetlands then that would be different. For now, staff used the best available information even though it might not be consistent with what you saw out there. The authority they were using was US Fish and Wildlife.

Frank said the natural condition of the land was probably dry before the ditches were put in. They had a ditch maintenance problem. A 60% loss was a big deal. He assumed someone would want to seal the ditches and then the problem would go away. He wondered if it was feasible to evaluate each lot based on the use when sold. Agricultural land in the County didn't have setbacks from ditches, fences or buffers. He didn't understand why they had to impose

restrictions. Jacob didn't think the setbacks were against agriculture. This property had gone through a process and this was the product that was at the end.

Sigurd saw that this was the product but maybe it should go back to being used as it was intended. Jacob said he and Rob had talked about identifying a building envelope on each lot. If the lot was developed with a residence, it would be built in the building envelope. He wondered if this would work for both parties. Rod said Montanans wanted their own piece of land and to do what they wanted. Rick said his personal view was the applicant had been harmed. He wasn't comfortable with more being imposed. He would be pleased to see this go back to agriculture. He expressed his confidence in the staff. Jacob explained he suggested the building envelope because then you wouldn't need a structural setback from waterways. Maybe that didn't work but it took away the setback because you were restricted to a building area. Jeff thought that worked well on a 1-acre lot; it seemed somewhat onerous on lots that averaged 28 acres. Dennis suggested keeping the septic fields 100 feet from them. That was a state regulation anyway and would be handled by Sanitation. Having the house with the 100-foot setback didn't make sense to him. Jacob recognized, appreciated and agreed with what Wally had said on this matter. There was more than that with the 100-foot setback. The State had a document on protecting wetlands and recommended a 100-foot setback. Dennis said he was talking about irrigation canals. Sigurd thought these were manmade wetlands. Jacob asked if it differentiated between the two.

Steve suggested modifying the findings of fact for the subdivision to recognize that setbacks applying to residential structures and use shouldn't necessarily apply to agricultural use and applications. The other thing to recognize was the reality of the wetlands being natural versus the result of an irrigation condition. They needed to apply those recommended setbacks in order to protect the natural wetlands that really did provide some kind of environmental benefit, rather than to protect a residential development too close to the wetland. The wetlands that were just puddles occurring because of a particular type of irrigation probably shouldn't be the type of wetland they tried to protect. Jacob saw that reasoning to a point. At the same time, Ninepipes Reservoir was completely supplied by irrigation water. How far did they go with that? Steve agreed it was difficult. If you had manmade conditions that created wetlands and you changed those conditions and the wetlands went away, it seemed like you couldn't call those wetlands. He didn't know what would happen to Ninepipes if they shut off irrigation in Mission Valley. Frank said the difference was Ninepipes was designed to do that and this land wasn't.

Rod said if you were to put a culvert in this property on each ditch, it wouldn't be there. Round Butte was a dry spot where you had to drill 500 to 800 feet [for water]. They had one hookup to Round Butte water, which was piped for miles to the property for drinking. Steve noted there were subdivisions not far from here where the argument was whether to let people build because you couldn't get water for the fire truck. In this situation there was too much water. Wally and Rod gave examples where the question was where to draw the line, for manmade versus not. Rod felt there was no compelling case for what they were trying to save here. It should have some functional purpose for preservation of something for the public good. He preferred to call them wet lands rather than wetlands

Steve said it would be great to have some expert testimony that said the kinds of things like there was nothing to preserve here if what they were talking about had some basis. That could be put in the findings of fact so a decision could be made to reduce the buffers, especially for agricultural use. He asked about the intent for the property. Jim Harrison said for the present, he planned on pasture. He didn't want to be shackled if he bought the property.

Rick thought there were reasonable people here and this could be resolved. Frank didn't think they needed an expert to say a leaking irrigation ditch would lead to water on the land. Steve preferred to have the word of a hydrologist who'd seen it and would stand up and verify the applicants were right. The applicants did have ulterior motive. Rob referred to Ben Montgomery at the NRCS, who told him they could do a wetland survey, but it wouldn't be definitive whether it was natural or not. Wally thought NRCS would have somebody on staff, or else Fish, Wildlife and Parks (FWP) or DNRC should, to look and give them a decision.

The applicants reiterated their comments on ditch leakage and wetlands. The ditch leakage was common knowledge so Jeff didn't know that they needed an authority to confirm it. Steve said he didn't see the ditch leakage problem in the findings of fact. In attachment 2, he saw buffers but not facts saying why they needed them. They could develop findings of fact that recognized leaking ditches and the resulting man-created wetlands and possibly words from somebody who said no wildlife used them. Those would be the findings of fact that would allow them to say they didn't need this kind of buffers. [Rod] said [with what] the findings of fact from the original subdivision spoke about, it wasn't wildlife habitat. He pointed to pg. 15 of attachment 2. Steve thought the Board could make a recommendation for wordsmithing by the staff to be done before it went with their recommendation to the Commissioners. Rod wanted all references to buffers and setbacks removed. Steve explained they had to state a reason to do that.

Dave G noted they had a parcel that was subdivided. Certain conditions were put on at that time. Whether those were right, wrong or indifferent, they were in place. They had a process to go through if they wanted to change those. Unfortunately, that process also involved other requirements. They were dealing with a situation if [inaudible] they could say to themselves that it made common sense to do this but they had to be able to do it in such a way that they didn't create a precedent so everybody who came down the road and said it was only wet because of some incidental reason. There might be a reason to have those setbacks if someone was going to make that residential, which might not make sense if it was going to be agricultural. Conditions had been put in place and requirements were in the code today. They needed to figure out how to meld those together so they didn't create more problems down the road. The problem here was they had a residential subdivision where it now maybe made sense to use for agriculture but they had the residential conditions that were in place and they had to deal with those. Steve said they couldn't just pretend they never did the subdivision. They had to recognize the fact that the situation had changed and they understood better now. Rod reiterated some of his frustrations.

Steve asked Jacob about spots where verbiage could be added to recognize some of the things that they'd identified tonight. Jacob replied that residential development on these lots required a building notification permit. He thought the best way to deal with this was for staff to confirm that they were not building on a canal or on what looked like an obvious wet spot at that time. Steve checked that he was saying by specifying at the time of applying for the building

notification permit, a review would be made of the appropriateness of the structural location. Sigurd suggested [this review would be of the] site, so then they wouldn't have to say a certain spot. Rod wanted the applicant to be able to have an engineer be able to say they could mitigate if [staff] thought it was too close and would typically not approve it. Jacob understood that leaving it open subjected the future owner to whatever the future planner [saw]. [Jeff] said that was a great fear and reiterated some of his concerns. Steve pointed out the rules helped get away from that arbitrariness.

Steve touched on the idea of identifying one or more building envelopes for each lot. Jacob described how with other subdivisions, a building envelope was proposed. If a future landowner wanted to change the building envelope, it was a possibility but it had to be approved. He gave its definition as a designated area where any and all building construction shall occur on the lot or any and all building construction may occur on, outside of which any and all building construction is prohibited. It wasn't defined to a particular size. Rod thought that what they described would put a pretty big restriction on it. Sigurd said you could have a large building envelope that would cover any area, then have it subject to review that it wasn't within 100 feet of a wetland. Maybe by that time, agriculture might have taken over. Jim Harrison pointed out given 2 ditches, each with a 100-foot setback, that took out 400 feet. He didn't think that left much. Sigurd noted you had to be 100 feet away for the drainfield. Jeff thought the residence could be closer. Steve pointed out that in a lot of cases, [showing] the building envelope, a driveway and an approach were not necessarily to restrict someone but more to show somebody that the lot was buildable. This made sure the lots were viable. Wally thought that might be the other way to look at it. If the purpose was agricultural, non-residential, perhaps the limitation was one residence on the parcel with no mother-in-law cottage. Jacob said that was already there. Wally thought it helped you address the question of whether it was agricultural or not, and moved you towards saying that was how it was going to get used. Steve said each lot had places that weren't advisable to build upon, and it was recommended the buyer of the lot use discretion and hire professional help to pick a safe building site. Rod said that was how they mitigated. He gave the example that they put up signs warning parents that the ditches were dangerous. He thought Steve's proposal was similar. Wally said this was a condition that they could do.

Dave mentioned permit zoning where different uses of a property had different conditions placed upon it. Just for something to think about, it would be if as long as the property use was strictly for agricultural purposes, here were conditions that existed for that property. If it was going to be developed into a residential property, with a residential unit, then here they had these [other] conditions. The setbacks could still apply in the residential. When they did a building envelope or if somebody wanted to build a house in an area that was within that 100-foot setback right now, they just needed somebody to do a wetland delineation and say this wasn't really a wetland, and go ahead and build. That was done all of the time. They could have different levels of conditions. He said [Jim Harrison] wanted to use this land for strictly agriculture. As long as it stayed agricultural, he would have these conditions to meet and maybe the setback requirements went away. Steve observed they had a 40-acre piece. Someone ought to be able to both use it for agriculture and build a house. Dave clarified that when they started to build the house, that was when they'd have to look at certain conditions such as where it could be located. Rod referred to an earlier remark about a [wise] place to build. Maybe they could go with some wording with that. Somebody [would] seek professional counsel for the siting of the house and

so on. Steve continued that impacts to possible natural wetlands were reduced and risks to the owner were minimized from problems with the irrigation canals. Jacob confirmed for Frank that each building would have to have approval anyway. He read the section that required that any development of the lots was required to get a building notification permit to ensure compliance with sanitation and subdivision approvals. Frank and Rod thought there were methods for building almost anywhere.

Dave asked if the issue was the 100-foot setback or was it what they were designating as wetland. If there was no wetland, the 100-foot setback didn't mean anything. If someone wanted to put the house in this location, and if based on the inventory it looked like it was in a wetland, the next step would be to do an onsite survey to determine if it was in fact a wetland. If it wasn't, then a permit could be issued. Jeff said the question was the buffer around the wetland. That took up the wetland plus 100 feet on either side. Dave said if you weren't putting improvements on the property, and it stayed agricultural [that didn't affect things]. Jim Harrison said you couldn't say it would stay that way. Who would buy it after him? He didn't want to lock them into something where they couldn't do anything. He thought the property was then worthless. Dave mentioned things were locked through covenants and zoning every day.

Motion made by Sigurd Jensen and seconded by Rick Cothorn, to recommend removing the setback, having any building be subject to the building notification process and maintaining a 20-foot setback on ditches.

Jacob mentioned as part of the staff's analysis, it wasn't going to be located in something that appeared to be a wetland. Sigurd thought after they gave agriculture a chance, there might not be a wetland. Steve said they were basing this on the applicants' opinions that these wetlands weren't wetlands. He didn't think the County Board could just say they were going to get rid of all buffers on this property no matter what. Sigurd thought that was why the County was going to [look at this] in the building notification process. That would take care of it [if there were real natural wetlands]. Frank asked about the definition of wetlands. Wally thought they had accomplished Dave's idea to tie the rules to the use. If the use was agricultural, then you didn't have a bunch of restrictions. If the use converted to residential, they had fewer rules than they had currently. They were limited to one building, a setback on the ditches, and a site that worked had to be picked around the issue of what wetlands were defined. That set of restrictions didn't kick in until the use was converted from agricultural to residential with agriculture.

Discussion turned to Sigurd's motion. Steve asked if there was mention of natural wetlands. Sigurd thought that would be determined by the [building notification process]. Steve checked that there would no buffers around wetlands, just along the ditch with a 20-foot setback. Sigurd said they would determine what setbacks were needed, if and when it came time to build. Frank thought when they reviewed the building request, if there were true wetlands, they would be taken care of at that time. Wally thought this was a clever and defensible solution.

Steve suggested amending the motion to say when the building site was considered and the land was evaluated that accepted practices were applied if there were natural wetlands. Sigurd preferred to keep it simple. If there was a natural wetland, Jacob or the future planner would see that and not let building occur in that area. Jacob liked leaving it open to analyze for the existing

conditions when a permit was applied for. One of the applicants asked if both setbacks and buffers could be removed.

Motion amended by Sigurd Jensen and seconded by Rick Cothorn, to recommend removal of setbacks and buffers, having any building be subject to the building notification process and maintaining a 20-foot setback on ditches. Sigurd clarified that Jacob or somebody after him would decide whether if it was next to a wetland, in which case they'd say no. Dave said common sense said you had to put your septic tank 100 feet away from the irrigation ditch, and you weren't going to put your house 95 feet from your septic tank. **Motion carried, all in favor.**

Wally said he, Jacob and Rob would work on the findings of fact. They would circulate it to the Board. Steve thought having feedback that this worked would help if they had to do this kind of thing another time. Dave said it was important also that they didn't put future planning boards, commissioners and planning staff between a rock and a hard place by having to say why you did it here and not be able to give any justification. Rick complimented the current staff.

PLANNING BOARD BYLAWS AMENDMENT (10:04 pm)

Steve pointed to the single change in the staff memorandum. (See attachments to minutes in the March 2017 meeting file for staff memorandum.) Frank thought the Board member representing the Tribes shouldn't have a vote.

Motion made by Sigurd Jensen, and seconded by Rick Cothorn, to recommend approval as presented in the staff memorandum. Motion carried, 5 in favor (Steve Rosso, Sigurd Jensen, Rick Cothorn, Lee Perrin, David Goss) in favor and 1 opposed (Frank Mutch).

MINUTES (10:04 pm)

The Board considered the Dec. 14, 2016 minutes. Steve checked with the group that Johnco Storage was the correct name to list at the bottom of pg. 2. Lita relayed one correction from the planners on pg. 1, where in the first line of the last paragraph, 'cell towner' was changed to 'cell tower'. **Motion by Rick Cothorn, and seconded by Steve Rosso, to approve the Dec. 14, 2016 meeting minutes with one correction. Motion carried, 3 in favor (Sigurd Jensen, Rick Cothorn, Steve Rosso) and 3 abstentions (David Goss, Lee Perrin, Frank Mutch).**

OTHER BUSINESS

None.

Steve Rosso, chair, adjourned the meeting. Meeting adjourned at 10:06 pm.